

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2488

Introduced by Assembly Member Levine

February 21, 2014

An act to amend Section ~~24204~~ 23399.4 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2488, as amended, Levine. Alcoholic beverages: ~~licenses: suspension and revocation~~. *certified farmers' market sales permit.*

The Alcoholic Beverage Control Act permits the Department of Alcoholic Beverage Control to issue special temporary licenses and permits to various entities for limited purposes. The act permits the department to issue a certified farmers' market sales permit that authorizes a licensee under a winegrower's license, a member of the licensee's family, or an employee of the licensee to sell wine produced and bottled by the winegrower at certified farmers' market locations, under specified conditions. The act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill would specify that, pursuant to the certified farmers' market sales permit, the licensee may only sell wine that is produced entirely from grapes or other agricultural products grown by the winegrower and that is bottled by the winegrower. This bill would require the certified farmers' market sales permit to authorize the licensee also to conduct an instructional tasting event on the subject of wine at a certified farmers' market, subject to certain conditions.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Alcoholic Beverage Control Act, regulates the application, issuance, and suspension of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law requires the Chief of the Bureau of Food and Drug Inspection to notify the Department of Alcoholic Beverage Control of the conviction of any licensee of any violation of the California Pure Foods Act in connection with alcoholic beverages. Existing law requires the department to promptly investigate whether grounds exist for suspension or revocation of the license.~~

~~This bill would instead require the Director of the State Department of Public Health to notify the department of the conviction of any licensees of any violation of the Sherman Food, Drug, and Cosmetic Law in connection with alcoholic beverages.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23399.4 of the Business and Professions
2 Code is amended to read:
3 23399.4. (a) ~~A licensee under a winegrower's license licensed~~
4 ~~winegrower~~ may apply to the department for a certified farmers'
5 market sales permit. A certified farmers' market sales permit shall
6 authorize the licensee, a member of the licensee's family, or an
7 employee of the licensee to sell wine ~~produced and bottled by the~~
8 ~~winegrower entirely from grapes grown by the winegrower~~ at a
9 certified farmers' market at any place in the state approved by the
10 department. *The licensee may only sell wine that is produced*
11 ~~entirely from grapes or other agricultural products grown by the~~
12 ~~winegrower and that is bottled by the winegrower. In addition,~~
13 ~~the permit will allow an instructional tasting event by the licensee~~
14 ~~on the subject of wine at a certified farmers' market.~~ The permit
15 may be issued for up to 12 months but shall not be valid for more
16 than one day a week at any single specified certified farmers'

1 market location. A winegrower may hold more than one certified
2 farmers' market sales permit. The department shall notify the city,
3 county, or city and county and applicable law enforcement agency
4 where the certified farmers' market is to be held of the issuance
5 of the permit. A "certified farmers' market" means a location
6 operated in accordance with Chapter 10.5 (commencing with
7 Section 47000) of Division 17 of the Food and Agricultural Code,
8 and the regulations adopted pursuant thereto.

9 *(b) (1) An instructional tasting event is subject to the*
10 *authorization and managerial control of the operator of the*
11 *certified farmers' market. The licensee, a member of the licensee's*
12 *family, or an employee of the licensee may conduct an instructional*
13 *tasting event for consumers on the subject of wine at a certified*
14 *farmers' market.*

15 *(2) (A) At all times during an instructional tasting event, the*
16 *instructional tasting event area shall be separated from the*
17 *remainder of the market by a wall, rope, cable, cord, chain, fence,*
18 *or other permanent or temporary barrier. Only one licensee may*
19 *conduct an instructional tasting event during the operational hours*
20 *of any one certified farmers' market.*

21 *(B) The licensee shall not permit any consumer to leave the*
22 *instructional tasting area with an open container of wine.*

23 *(c) The licensee shall not pour more than three ounces of wine*
24 *per person per day.*

25 ~~(b)~~

26 *(d) The licensed winegrower eligible for the certified farmers'*
27 *market sales permit shall not sell more than 5,000 gallons of wine*
28 *annually pursuant to all certified farmers' market sales permits*
29 *held by any single winegrower. The licensed winegrower shall*
30 *report total certified farmers' market wine sales to the department*
31 *on an annual basis. The report may be included within the annual*
32 *report of production submitted to the department, or pursuant to*
33 *any regulation as may be prescribed by the department.*

34 *(e) Except as otherwise provided in this division or by the rules*
35 *of the department, no premium, gift, free goods, or other thing of*
36 *value shall be given away by an authorized licensee or its*
37 *designated representative in connection with an instructional*
38 *tasting event conducted pursuant to this section that includes*
39 *tastings of wine.*

40 ~~(e)~~

(f) The fee for any permit issued pursuant to this section shall be ~~forty-four dollars (\$44) for permits issued during the 2002 calendar year, forty-seven dollars (\$47) for permits issued during the 2003 calendar year, fifty dollars (\$50) for permits issued during the 2004 calendar year, and for permits issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (c) and (d) of Section 23320~~ *fifty dollars (\$50), subject to adjustment pursuant to subdivisions (b) and (c) of Section 23320.*

(d)

(g) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 24204 of the Business and Professions Code is amended to read:~~

~~24204. The Director of the State Department of Public Health shall immediately notify the department of the conviction of any licensee of any violation of the Sherman Food, Drug, and Cosmetic Law in connection with alcoholic beverages. The department shall promptly cause an investigation to be made as to whether grounds exist for suspension or revocation of the license of such licensee.~~